UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,801	06/18/2001	Niraj Gopal	CISCO-3666	4735

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EXAMINER
DENNISON, JERRY B

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	09/884,801	GOPAL, NIRAJ
	Examiner	Art Unit
	J. Bret Dennison	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>22 February 2005</u>.
2a) ☐ This action is **FINAL**.　　2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
　　closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-16* is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-16* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some * c)☐ None of:
　　　1.☐ Certified copies of the priority documents have been received.
　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This Action is in response to Amendment for Application Number 09/884,801

received on 22 February 2005.

2.   Claims 1-16 are presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

3.   Claims 1, 2, 3, 4, 7, 10, 13, and 15 recite the limitation "MIB tables". It is unclear

to Examiner what MIB stands for in terms of the claim language. Appropriate correction

is required.

4.   Claims 1, 2, and 3 recite the limitation "selecting a MIB table that has been

modified". It is unclear to Examiner how the determination is made that an MIB table is

modified. Appropriate correction is required.

5.   Claim 1 recites "the most recent modification". There is insufficient antecedent

basis for this limitation in the claim. Examiner suggests using "the most recent

modification in the selected MIB table". Appropriate correction is required.

6.   Claim 1 recites "the selected table". There is insufficient antecedent basis for this

limitation in the claim. Examiner suggests using "selected MIB table". Appropriate

correction is required.

7.   Claims 1, 2, and 3 recite the limitation "retrieving a count of the number of

modifications that have been performed on the selected table". It is unclear to Examiner

if the count of the number of modifications retrieved is a count retrieved since the poll

was performed or in total. Appropriate correction is required.

8.   Claims 1, 2, and 3 recite the limitation "determining whether the count can be

resolved". It is unclear to Examiner what this means in terms of the claims. It is unclear

to Examiner as to how counting the number of rows in a table would be a problem.

Appropriate correction is required.

9.   Claim 4, 7, and 10 recite the limitation "identifying at least one unregistered MIB

table". It is unclear to Examiner how this identification occurs. Appropriate correction is

required.

10.   Claims 4, 7, and 10 recite the limitation "initializing a count" and "initializing a

timestamp". The term "initializing" means, "setting to default values". It is unclear to

Examiner how these variables are used. There is no functionality in the claim that

requires these variables. Examiner suggests claim language as provided in claim 15.

Appropriate correction is required.

11.   Claims 5, 8, and 11 recite the limitation "determining whether an observation of

change notifications is desired or required for the identified table". It is unclear to

Examiner how this determination is made, and it is also unclear as to what an

observation of change consists of. Appropriate correction is required.

12.   Claims 5, 8, and 11 recite the limitation "enabling observation for the identified

table". It is unclear to Examiner what enabling observation consists of. Appropriate

correction is required.

13.   Claims 13 and 15 recite the limitation "identifying each NMS". There is

insufficient antecedent basis for the limitation "each NMS" in the claim. It is also unclear

to Examiner what this acronym means as far as the claim language is read.

Appropriate correction is required.

14.   Claims 6, 9, 12, and 14 recite the limitation "registering a callback function for

each registered table". Examiner is unclear as to what a callback function is and what it

is used for. Appropriate correction is required.

15.   Claim 15 recites the limitation "identifying which tables have been modified". It is

unclear to Examiner how this identification is performed. Appropriate correction is

required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Willie et al. (U.S. Patent Number 6,052,724) in view of Wolf et al. (U.S. Patent Number

6,278,694).

16.   Regarding claims 1-3, Willie discloses a computer-readable medium having

stored thereon computer-executable instructions for performing a method for detecting

data modifications in MIB tables, the method comprising:

selecting a MIB table that has been modified (Willie, col. 8, lines 1-7);

determining whether the most recent modification is more recent then a recorded

time indicating the last time that a poll was performed (Willie, col. 8, lines 35-41).

Willie also discloses containing counters and other various variables used by the

directory service to maintain the status of the portion of the distributed directory on the

managed server (Willie, col. 7, lines 60-67) and he also discloses the directory service

maintaining an event system where traps are generated upon the occurrence of an event and is communicated to the management station when polling takes place (Willie, col. 8, lines 20-40).

However, Willie does not explicitly state when the most recent modification is more recent, retrieving a count of the number of modifications that have been performed on the selected table; and

determining whether the count can be resolved and when the count can not be resolved, retrieving at least one modified row for the selected table.

In an analogous art, Wolf teaches a method for collecting and reporting monitoring data for network probes where a network manager periodically polls remote probes for monitoring data, and the network manager receives messages containing counter values for the number of changes during a sampling time and using the counter values to retrieve data if applicable (Wolf, col. 5, lines 10-40).

Therefore it would have been obvious to one in the ordinary skill in the art at the time of the invention to incorporate the network monitoring of Wolf into Willie for the benefit of calculating modifications of data observed by the network manager and combining data with the modifications made by the network manager to obtain a complete set of modifications over sampling times (Wolf, col. 1, lines 40-45).

17.   Regarding claims 4, 7, 10, 13, and 15, Willie discloses a method for initializing a system for detecting data modifications in MIB tables, the method comprising:

identifying at least one unregistered MIB table to be monitored for modifications
(Willie, col. 8, lines 20-45);

registering the identified table (Willie, col. 8, lines 20-67);

initializing a count of the number of modifications that have been performed on
the identified table (Willie, col. 7, lines 60-67);

However, Willie does not explicitly disclose initializing a timestamp as to when a last
modification was performed on the identified table. In an analogous art of networking,
Wolf discloses a method for collecting network data over sampling times (Wolf, col. 3,
lines 40-60). Therefore it would have been obvious to one in the ordinary skill in the art
at the time of the invention to incorporate the network monitoring of Wolf into Willie for
the benefit of calculating modifications of data observed by the network manager and
combining data with the modifications made by the network manager to obtain a
complete set of modifications over sampling times (Wolf, col. 1, lines 40-45).

18.   Regarding claims 5, 8, 11, Willie and Wolf disclose the limitations, substantially
as claimed, as described in claims 4, 7, and 10, including

determining whether an observation of change notifications is desired or required
for the identified table (Willie, col. 8, lines 20-67); and
when the observation of change notifications is desired or required, enabling
observation for the identified table (Willie, col. 8, lines 20-67). See motivation for claim
4.

19.   Regarding claim 6, 9, 12, 14, and 16, Willie and Wolf disclose the limitations,

substantially as claimed, as described in claim 4, 7, 10, 13, and 15, including registering

a callback function for each registered table (Willie, col. 8, lines 35-45). See motivation

for claim 4.

Response to Amendment

Applicant's arguments and amendments filed on 22 February 2005 have been carefully

considered but they are not deemed fully persuasive.

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, for the benefit of

calculating modifications of data observed by the network manager and combining data

with the modifications made by the network manager to obtain a complete set of

modifications over sampling times (Wolf, col. 1, lines 40-45).

In response to applicant's argument that the examiner's conclusion of

obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA

1971).

Applicant's arguments include the failure of previously applied art to expressly

disclose the teachings of "selecting one module over another" [see Applicant's

Response, page 4]. However this limitation is not in any of the claims. The claimed

invention contains nothing about selecting modules.

Applicant's arguments include the failure of previously applied art to expressly

disclose the teachings of "comparing the timing to any reference time" [see Applicant's

Response, page 4]. However, Willie disclosed that when an event occurs, its

corresponding trap is generated which is spontaneously communicated to management

station, indicating that a modification has occurred since the previous polling [see Willie,

col. 8, lines 35-45].

Applicant's arguments include the failure of previously applied art to expressly

disclose the teachings of "counting modifications, resolving the count, or retrieving at

least one row". However, it is unclear what resolving the count means. Examiner

interpreted this limitation to be retrieving an event that occurred [see Willie, col. 8, lines

35-45].

In response to applicant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See In re Keller, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments include the failure of previously applied art to expressly disclose the teachings of initializing a count after identifying a table [see Applicant's Response, page 4]. However, Willie disclosed including counters to maintain the status of information corresponding to the devices on the network, where the majority of the data associated with the objects resides in the data module. [see Willie, col. 7, last paragraph].

As shown in the above rejection, multiple 112 issues were brought to Examiner's attention while addressing Applicant's arguments. It is the Examiner's opinion that correction of these 112 issues will clarify the ambiguities that are causing difficulties in understanding the claimed invention

Thus, Applicant's arguments drawn toward distinction of the claimed invention and the prior art teachings on this point are not considered persuasive. It is also clear to the Examiner that Willie and Wolf clearly taught the independent claims of the Applicant's claimed invention.

Furthermore, as it is Applicant's right to continue to claim as broadly as possible their invention, it is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique.   By the rejection above, the

applicant must submit amendments to the claims in order to distinguish over the prior

art use in the rejection that discloses different features of Applicant's claimed invention.

It is the Examiner's position that Applicant has not yet submitted claims drawn to

limitations, which define the operation and apparatus of Applicant's disclosed invention

in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and

supply arguments commensurate in scope with the claims implies the Applicant intends

broad interpretation be given to the claims. The Examiner has interpreted the claims

with scope parallel to the Applicant in the response and reiterates the need for the

Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in

the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are

applied to specific limitations within the individual claim, other passages and figures

may apply as well. It is respectfully requested from the applicant in preparing

responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention, as well as the context of the passage as taught by the prior art

or disclosed by the Examiner.

It is presumed that claims xxx invoke "means plus function" language and

interpretation in accordance with 35 USC 112 sixth paragraph. In order to verify and

ascertain the metes and bounds of the claimed invention, Applicant is requested to

isolate the portion(s) of the specification, which dictates the structure relied on for

proper interpretation if this presumption is appropriate.

In the case of amending the claimed invention, Applicant is respectfully

requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds
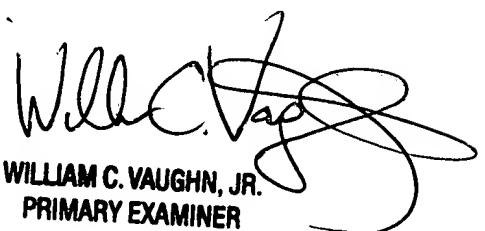
of the claimed invention.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-

3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

J. B. D.
Patent Examiner
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WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER